

Offender-Centric Policing in Cases of Rape

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Abstract

The article explores the idea of ‘offender-centric’ policing in cases of rape, with its focus on suspect and offender admissions and behaviours. It features discussion of 11 cases, illustrating offender-centric pathways to charge or conviction, the challenges facing complainants, suspects and police officers, along with missed opportunities to focus on a suspect’s behaviour. The importance of victim care and support is discussed, and it is argued that victim care should accompany an offender-centric approach to rape investigation. It is also argued that there are potential dangers with offender-centric tactics, specifically, that without due care it may become a self-confirming investigative tool influenced by confirmation bias which may lead to flawed decision-making. The article concludes by arguing that offender-centric policing has benefits in those cases with suspects who engage in predatory behaviour, have a history of previously undisclosed sexual offending and domestic violence and other problematic behaviours. It also has value in focusing the attention of investigators on what steps were taken by a suspect to ascertain the complainant’s consent. While the offender-centric approach cannot address all investigative challenges in rape cases, it is a useful addition to existing strategies.

Keywords

Rape, sexual assault, police, offenders, investigation

Introduction

In April 2015, the police and Crown Prosecution Service published a joint Action Plan on rape which sets out how investigations and prosecutions need to become ‘offender-centric’ involving a ‘focus on the actions of the offender, rather than those of the victim’ particularly in cases involving vulnerable victims

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where there can be a ‘misunderstanding of critical issues around consent and credibility’.¹ A new joint Action Plan published in 2021 re-asserts a commitment to the offender-centric approach, the delivery of specialist RASSO² training and the piloting of an ‘offender-centric investigation model’ in Avon and Somerset Constabulary and CPS South West.³ Beyond the content of these Action Plans, little has been written on the topic and with the exception of one report,⁴ there is no publicly available data to judge the effectiveness of such methods in cases of rape. Most recently, the Crown Prosecution Service has published its updated guidance for prosecutors which makes explicit reference to the importance of the offender-centric approach and states that an ‘effective strategy for investigating and prosecuting rape requires focus on the actions of, and tactics used by suspects’.⁵ Clearly, the idea of offender-centric policing and prosecution should be more widely understood in the midst of ongoing efforts to embed it within the criminal justice response to rape in England and Wales.

This article seeks to explore the characteristics of offender-centric policing as it specifically pertains to cases of rape and other sexual offences. It draws on original police case file data to explore the different ways in which offender-centric police tactics may improve case building and the chances of a case resulting in charge and/or conviction. The analysis will include reference to research on sex offenders and their *modus operandi*. First, the article examines the policy and research background of offender-centric policing. Second, 11 police rape investigations will be examined to illustrate the characteristics of offender-centric tactics and impact in real rape investigations. This comprises cases illustrating offender-centric pathways to charge or conviction, challenges facing complainants, suspects and police officers when an offender-centric approach is adopted and missed opportunities to focus on a suspect’s behaviour. Third, the article explains the importance of victim care in the context of offender-centric policing, including the role of Sexual Assault Investigation Team (hereafter SAIT officers)⁶ and Independent Sexual Violence Advocates (hereafter ISVAs).⁷ Fourth, the danger that officer decision-making could be influenced by confirmation bias when using the offender-centric approach is considered. Finally, the article concludes by arguing that the offender-centric policing approach is a useful investigative tool.

Background

In recent years, there has been growing reference to the idea of ‘offender centric’ or ‘offender centred’⁸ policing and prosecution in cases of rape. The idea of offender-centric policing has existed for several decades, although owing to the use of differing terminology to describe this policing model, it likely has

1. *Joint CPS and Police Action Plan on Rape* (2015) 1.

2. ‘RASSO’ stands for Rape and Serious Sexual Offences.

3. *Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan 2021* (2021). It is intended that the pilot study will extend to another four police forces and CPS Areas between January 2021 and March 2022.

4. E Angiolini, *Report of the Independent Review into the Investigation and Prosecution of Rape in London* (2015) at paras 619–26.

5. Crown Prosecution Service, *Rape and Sexual Offences—Overview and Index of 2021 Updated Guidance*, 21 May 2021, chapter 3: case building.

6. SAIT officers *inter alia* conduct complainant interviews, update complainants on case developments, signpost specialist victim services and provide an important point of contact for the complainant and detectives investigating the case. See also L McMillan, ‘The Role of the Specially Trained Officer in Rape and Sexual Offence Cases’ (2015) 25 *Policing and Society* 622. In some police force areas, SAIT officers are referred to as SOIT (Sexual Offences Investigation Trained) or STOs (Specially Trained Officers).

7. The role of an ISVA is *inter alia* to provide specialist advice, support and advocacy throughout the criminal justice process and are an important means of preventing complainant withdrawal: A Robinson, *Independent Sexual Violence Advisors: A Process Evaluation* (2009) <<https://orca.cf.ac.uk/24241/1/isvareport.pdf>> accessed 24 March 2021; M Hester and SJ Lilley, *More than Support to Court: ISVAs in Teesside* (2015); P Rumney and others, ‘A Specialist Rape Investigation Unit: A Comparative Analysis of Performance and Victim Care’ (2019) 29 *Policing and Soc* 1, 15–16.

8. Angiolini (n 4) 126.

a longer history. In the contemporary literature, offender centric or ‘offender focused’⁹ policing refers to police tactics designed to utilise intelligence to deter criminality¹⁰ and to identify offenders.¹¹ These tactics have been the subject of rigorous evaluation.¹² Offender-centric tactics have been adapted from their use in drug and gang-related offending¹³ to be successfully applied to domestic violence cases with a focus *inter alia* on reducing reoffending and providing support to victims.¹⁴ In contrast, there has been little information in the public domain explaining what offender-centric policing or prosecuting in rape cases should look like,¹⁵ or an evaluation of its use in practice.¹⁶

A Crown Prosecution Service Vulnerable Victim Toolkit for prosecutors states that the offender-centric model involves a focus on the ‘tactics and behaviours’ of suspects or defendants and identifies various factors to consider when prosecutors assess suspect or defendant conduct.¹⁷ This includes background and previous offending history, demeanour at the time of arrest and behaviour intended to pre-empt a rape allegation.¹⁸ Despite being explicitly directed at prosecutors,¹⁹ in a number of key respects the CPS Toolkit (hereafter Toolkit) has relevance to the work of police officers. The recently updated CPS guidance sets out an expectation that prosecutors will emphasise the importance of the offender-centric approach to police officers:

Prosecutors must... encourage investigators to take an offender-centric approach to case building which involves looking closely at the actions of the suspect both before, during and after the alleged assault... Prosecutors should advise investigators to pursue reasonable lines of enquiry to assess a suspect’s behaviour before, during and after the alleged assault.²⁰

The focus on suspect behaviour emphasises the importance of identifying predatory conduct, such as the specific targeting of vulnerable victims, selection of location and timing of the offence and ‘use of drugs and alcohol to disarm the victim’.²¹ The Toolkit is generally drafted in a manner that is appropriate in respect of terminology. There is reference to ‘offender’ behaviours, which may help police officers and prosecutors consider interpretations of behaviour that had previously been neglected or misunderstood. The Toolkit also makes appropriate references to ‘suspect’ and ‘defendant’. This is not only

9. See n 13, below.

10. ER Groff and others, ‘Does What Police Do at Hot Spots Matter? The Philadelphia Policing Tactics Experiment’ (2015) 53 *Criminology* 23. See also AA Braga and DL Weisburd, ‘The Effects of Focused Deterrence Strategies on Crime: A Systematic Review and Meta-Analysis of the Empirical Evidence’ (2012) 49 *J Res Crime & Delinq* 323.

11. ER McGarrell, S Chermak and A Weiss, ‘Reducing Firearms Violence Through Directed Police Patrol’ (2001) 1 *Criminol & Public Policy* 119.

12. Ibid; Groff and others (n 10); Braga and Weisburd (n 10).

13. S Sechrist, J Weil and T Shelton, *Evaluation of the Offender Focused Domestic Violence Initiative (OFDVI) in High Point, NC and Replication in Lexington, NC* (2016) 13 <<http://ncnsc.uncg.edu/wp-content/uploads/2013/11/COPS-OFDVI-Lexington-High-Point-Evaluation-FINAL.pdf>> accessed 24 March 2021.

14. For example, see the evaluation of an offender centric-type approach used by a division of West Yorkshire Police that *inter alia* reduced reoffending, identified and reduced the number of chronic offenders and increased help seeking by female victims of domestic violence: J Hanmer, S Griffiths and D Jerwood, *Arresting Evidence: Domestic Violence and Repeat Victimisation Policing and Reducing Crime Unit: Police Research Series*, 104 (1999) Recent research from the United States of America has found that a ‘focused deterrence’ policy targeting domestic violence perpetrators reduced reoffending and victim injury: SM Sechrist and JD Weil, ‘Assessing the Impact of a Focused Deterrence Strategy to Combat Intimate Partner Domestic Violence’ (2018) 24 *Violence Against Women* 243. See also Sechrist and others (n 13).

15. The Crown Prosecution Service Vulnerable Victim Toolkit provides a rare example: *Toolkit for Prosecutors on Violence Against Women and Girls Cases Involving a Vulnerable Victim* (2015). The 2021 updated CPS guidance advises prosecutors to continue using this Toolkit.

16. The exception is Angiolini (n 4).

17. Toolkit (n 15) 4–6.

18. Ibid 5.

19. Ibid 1.

20. CPS (n 5).

21. Toolkit (n 15) 1.

important in terms of the accurate use of language but is an important reminder to anyone consulting the document of a critical legal distinction.²²

The practice of offender-centric rape investigation, however, is more problematic. In a review of the policing and prosecution of rape cases in London, it was found ‘there was still a very acute focus of attention on the credibility and reliability of the complainant in all cases, to the detriment of any meaningful concentration on the behaviour and previous conduct of the suspect’.²³ The Toolkit references the issue, thus: ‘Effective case building and prosecution requires the early consideration of the *credibility of the overall allegation*, rather than focusing solely on the victim’ (emphasis in original).²⁴ The Toolkit offers a wide ranging definition of vulnerability and makes the point that if vulnerability is misunderstood, it ‘might have a negative impact on a person’s credibility and therefore undermine their account’.²⁵ Indeed, there is evidence of this problem in the existing literature.²⁶ This framing of the Toolkit around vulnerability performs the important task of focusing minds on victims and victim groups who may not have been best served by previous prosecutorial approaches. However, it is also important to acknowledge that problems such as misperceptions of a complainant’s credibility and reliability may occur irrespective of the complainant’s vulnerability.²⁷ As such, the offender-centric approach may be an important means of ensuring a thorough consideration of the respective accounts of the suspect and complainant in many, if not all rape case investigations and prosecutions.

The offender-centric approach in rape cases may give assistance in understanding common offender characteristics and behaviours in the legal sphere. The Toolkit provides a table setting out a non-exhaustive list of ‘the types of tactics and behaviours that an offender might use or display to minimise the risk of punishment’.²⁸ Elsewhere, Burrowes categorises rapists into types (sadistic, coping, entitled and self-deluding) and argues that ‘these basic types can be useful tools for spotting common characteristics in the *modus operandi* of offenders which can provide prosecutors with an alternative case theory that explains the facts of the case’.²⁹ In their study of 213 sex offenders, Horan and Beauregard examined their developmental characteristics, criminal history, *modus operandi* and the context in which their crimes occurred. These offenders were chosen because they had targeted what the authors refer to as ‘marginalised’ victims (sex workers, the homeless and severe drug users), involving three offending pathways: coercive, explosive and situational.³⁰ This under-researched area was followed by a second study in which Horan and Beauregard compared the characteristics of sexual assaults on marginalised and non-marginalised victims. They found that the two differed—marginalised victims were subject to degradation and torture and in cases involving non-marginalised victims, there was use of a weapon and killing by strangulation.³¹ Further research of offending patterns in cases involving marginalised or vulnerable victims may provide important information, particularly in the interpretation of evidence pertaining to a suspect or defendant.

22. In contrast, the word ‘complainant’ is not referenced at all and ‘victim’ is referenced 68 times.

23. Angiolini (n 4) [621].

24. Toolkit (n 15) 2.

25. This is an important issue given that many rape complainants are vulnerable and have complex needs. For discussion, see Angiolini (n 4); E Williams and B Stanko, ‘Reviewing Rape and Rape Allegations in London: What Are the Vulnerabilities of the Victims Who Report to the Police?’ in M Horvath and J Brown (eds), *Rape: Challenging Contemporary Thinking* (Willan Publishing, Cullompton 2009).

26. See, for example, B Pettitt and others, *At Risk, Yet Dismissed: The Criminal Victimization of People with Mental Health Problems* (2013) 8–9, 12, 58.

27. See generally Angiolini (n 4). See also J Temkin and B Krahé, *Sexual Assault and the Justice Gap: A Question of Attitude* (Hart Publishing, Oxford 2008).

28. Toolkit (n 15) 2, 4–6. These tactics and behaviours will be discussed in detail later in the article.

29. N Burrowes, *Responding to the Challenge of Rape Myths in Court. A Guide for Prosecutors* (2013) 20.

30. L Horan and E Beauregard, ‘Pathways in the Offending Process of Sex Offenders Who Target Marginalised Victims’ (2017) 14 *J Investig Psychol Offender Profiling* 213.

31. L Horan and E Beauregard, ‘Sexual Violence Against Marginalized Victims: Choice of Victim or Victim of Choice?’ (2018) 13 *Victims and Offenders* 277.

More broadly, the research literature on sex offenders, including rapists and child sex offenders, has seen the development of many differing offender typologies. More recent work has addressed some of the limitations of earlier research that tended to focus on personal characteristics but failed to capture the dynamic, complex nature of offender conduct and the impact of situational and geographic factors on this behaviour.³² One of the potential problems with the use of sex offender typologies is that offenders do not necessarily fit into neat categories—individual offenders may predominantly fit into one typology, but some elements of their behaviour may fall into another. Thus, the dynamic nature of offending can be difficult to capture and strict adherence to a particular typology may ignore or de-emphasise important offender tactics and behaviours. Research has examined the ‘hunting’ style of sex offenders and how they target victims.³³ This research suggests that sex offenders (as with other types of criminal) are rational actors—they make a series of decisions regarding such things as choice of victim, crime location and aftermath of offending.³⁴ According to ‘rational choice perspectives’ criminals, including sex offenders seek to maximise their chances of successfully committing an offence while reducing the risk of apprehension or conviction and in the case of serial offenders, learning from previous offending.³⁵ The literature on vulnerable victims suggests that victims with specific types of vulnerability, for example, mental health issues, suffer victimisation at a higher rate than those without such a vulnerability.³⁶ Research involving serial sex offenders has found that they use victim vulnerability when deciding who to target.³⁷ Chopin and others note: ‘some offenders will target victims who present specific characteristics (e.g., age, vulnerable lifestyle) as they are associated with a greater chance to avoid police detection’.³⁸ Furthermore, research has found that sex offenders seek to use rape supportive attitudes to justify non-consensual sexual activity with women.³⁹ Wegner and others found a link between attitudes and offenders’ subsequent behaviour: ‘The greater perpetrators’ use of post-assault justifications to explain their behavior [when first interviewed] . . . the more likely they were to commit an act of sexual aggression during the 1-year follow-up period’.⁴⁰ These findings may prove useful in the training of police officers and prosecutors, explaining sex offender behaviours, influences and efforts to minimise capture. They may also assist in the development of investigative and interview strategies.

Methodology

The 11 cases used in this article were taken from a larger sample of 441 police rape investigation case files featuring female and male complainants aged 14 years and older. The project was granted university ethics approval. The cases featured in this article were selected for the purpose of illustrating various aspects of offender-centric policing and are not intended to describe wider trends within the case file data. First, nine cases were identified that resulted in a charge or conviction. These cases provide examples of sex offender behaviour, officer questioning strategies and tactics when investigating

32. See, for example, MF Rebocho and RA Gonçalves, ‘Sexual Predators and Prey: A Comparative Study of the Hunting Behavior of Rapists and Child Molesters’ (2012) *J Interpers Violence* 1, 4.

33. E Beauregard and others, ‘Script Analysis of the Hunting Process of Serial Sex Offenders’ (2007) 34 *Crim Just & Behav* 1069.

34. E Beauregard, MF Rebocho and DK Rossmo, ‘Target Selection Patterns in Rape’ (2010) 7 *J Investig Psychol Offender Profiling* 137, 140–41.

35. Ibid 148.

36. Pettitt and others (n 26) 19.

37. E Beauregard, DK Rossmo and J Proulx, ‘A Descriptive Model of the Hunting Process of Serial Sex Offenders: A Rational Choice Perspective’ (2007) 22 *J Fam Violence* 449.

38. J Chopin and others, ‘Rapists’ Behaviors to Avoid Police Detection’ (2019) 61 *J CJ* 81, 81.

39. R Wegner and others, ‘Sexual Assault Perpetrators’ Justifications for Their Actions: Relationships to Rape Supportive Attitudes, Incident Characteristics, and Future Perpetration’ (2015) 21 *Violence Against Women* 1018 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4491036/>> accessed 24 March 2021.

40. Ibid 10. This page reference is to the online version of this article.

suspects.⁴¹ Second, one case was identified that illustrated a missed opportunity to use offender-centric tactics, and another case was selected because it demonstrated how case complexity can pose challenges to the offender-centric approach. The qualitative data in the 11 cases are anonymised and analysed in light of the wider research literature on sex offender behaviour and the Crown Prosecution Service Toolkit for prosecutors.

Offender-Centric Investigative Pathways

This section examines nine cases and five different pathways to charge and conviction with analysis of the behaviours of suspects and the tactics and investigative focus of officers. In other words, what research involving British and Norwegian homicide detectives refers to as investigative ‘strategies and connected lines of inquiry’.⁴² The discussion includes analysis of two further cases involving factual complexity and a missed opportunity to use offender-centric methods. The section will include reference to victim care to explain its role in addressing the varied needs of complainants and supporting engagement with the investigative process.

Absence of Reasonable Belief and the Entitled Offender

In case 1, the complainant told police that she was woken by a male who had penetrated her with his penis while she was sleeping. Despite the unwillingness of several witnesses to identify the assailant, others did assist. The suspect was subsequently identified and arrested. During interview, the suspect denied any knowledge of the incident or the witnesses who said they knew him. Forensic evidence linked the suspect to the complainant. In the context of a person who is asleep an evidential presumption applies that such a person does not consent, and the suspect cannot reasonably believe in consent, unless evidence of reasonable belief can be adduced.⁴³ The questioning by officers focused on efforts the suspect made to ascertain a sleeping woman’s consent and the reasonableness of any belief in consent. Section 1(1) of the Sexual Offences Act 2003 states *inter alia* that: ‘a person (A) commits an offence if— (c) A does not reasonably believe that B consents’. Section 1(2) states: ‘Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents’. When questioned about the steps he took to ascertain the complainant’s consent, by for example, waking and asking her, he admitted making no such efforts. Critically, he also conceded that he had no reasonable belief that the complainant was consenting. He was subsequently charged and pleaded guilty to rape.

This convicted rapist’s behaviour shows a strong element of entitlement and this particular case fulfils several elements of Burrowes’s ‘entitled rapist’ typology: ‘I feel entitled to sex with or without your consent . . . I am opportunistic but I may plan my offences . . . I may use coercion to get my victim to the location for the offence but in general I am entitled to sex and I do not need to talk my victim into it . . . I may use incapacitation—it just makes my life easier’.⁴⁴ The suspect took advantage of an opportunity to offend and was not pre-planned. He did not talk to his victim (this may well have led to rejection) and took advantage of his victim’s incapacitation (sleep) and her location (a bedroom) to offend. Other research has found that ‘[s]exually aggressive men have higher levels of general and sexual

41. Where case files provided evidence of questioning strategies.

42. I Fahsing and K Ask, ‘Decision Making and Decisional Tipping Points in Homicide Investigations: An Interview Study of British and Norwegian Detectives’ (2013) 10 *J Investig Psychol Offender Profiling* 155, 160.

43. Section 75(1) and (2)(d).

44. Burrowes (n 29) 20–2. It is not possible to know from the case file data whether the offender fulfilled other parts of the typology, for example, ‘I have very negative attitudes towards women. I think that women are there to fulfil my sexual needs’ (at 21), but the suspect’s behaviour certainly suggests problematic attitudes towards women.

entitlement'.⁴⁵ Such self-entitled offenders, when they admit their behaviour or where there is other strong evidence, can be ensnared by ss 1(1)(c) and 1(2) and the focus on their failure to ascertain consent.

The Investigative Utility of Problematic Behaviour

A suspect's history, criminal or otherwise can provide detectives with important evidence that indicates a history of problematic behaviours. In case 2, the suspect met the complainant as part of his work for a charity. He invited her to his home, she subsequently fell asleep and woke up to discover he was penetrating her with his penis. During the investigation, police discovered two forms of behaviour that raised concern. First, police discovered that the suspect had asked the complainant to delete email communication between them. Second, the suspect was the subject of disciplinary action taken by his employer after he engaged in inappropriate contact with another female client. The Toolkit asks, 'How might the victim's vulnerabilities facilitate the type and level of access the suspect/defendant had to them?'⁴⁶ In the case file, officers described his alleged behaviour as a 'breach of trust', reflecting the suspect's inappropriate behaviour with at least two clients with vulnerabilities. It is evident that the suspect used his position of trust to meet and facilitate contact beyond a normal professional-client relationship. In addition to the sense of entitlement reflected in his decision to violate a sleeping woman, his behaviour fits many elements of Beauregard and others' description of serial offenders who invest time:

preparing their crimes and selecting their targets. They wait for or create opportunities (through their occupation) or go to locations where opportunities already exist... They may plan their offense to be ready when an opportunity presents itself at a location at which they have a great deal of control (e.g., residence, workplace...)... It has been reported that these offenders, because of their position and status, may appear nonthreatening to their victims. They benefit from a context that affords them the opportunity to be in the presence of potential victims and, therefore, to establish intimate relationships with some of them through manipulative strategies... Moreover, they can easily create situations that allow them to be alone with potential victims... not only to gain the victim's trust [and] gain the victim's trust but also to provide a favourable context for sexual activity.⁴⁷ (Internal citations deleted)

In the context of this case, the offender used his employment to meet vulnerable victims and committed his offence in a setting in which he had control (his home). Given his employment, he would appear non-threatening to potential victims (clients) and this provided opportunities to gain the trust of potential victims and meet with them alone, engage in inappropriate behaviour (meeting clients outside of work) and go on to offend.⁴⁸ The suspect was subsequently charged with rape and sexual assault, and convicted of sexual assault. This case is an example of the importance of an offender-centric approach sitting alongside quality victim care. The complainant in case 2 was initially unsure about supporting the investigation and was nervous and fearful of the investigative process. The SAIT officer encouraged her to engage with the police and make a formal complaint and subsequently, they stayed in regular contact

45. LA Bouffard, 'Exploring the Utility of Entitlement in Understanding Sexual Aggression' (2010) 38 JCJ 870. For similar findings, see AR Beech, T Ward and D Fisher, 'The Identification of Sexual and Violent Motivations in Men Who Assault Women: Implication for Treatment' (2006) 21 *J Interpers Violence* 1635, 1642, 1648.

46. Toolkit (n 15) 4.

47. Beauregard and others (n 33) 1080. The quote lists those factors relevant to case 2 and a small number of factors were not applicable or were irrelevant, for example, reference to child sexual abuse.

48. This does not, of course, make the suspect in case 2 a serial offender and there was no evidence in the case file to suggest he was. Such labels require careful analysis and a recognition that some behaviours between differing types of sex offender may overlap. The purpose of the analysis is to highlight the similarity between case 2 and many of Beauregard and others' descriptive elements.

with welfare checks and case updates. The police also referred her to an ISVA—such allocations have been shown to reduce complainant withdrawal in rape cases.⁴⁹

The Use of Third-Party Accounts as Part of an Investigative Strategy

Case 3 involved a historic allegation of rape. Police officers worked with the complainant and her family who alleged the suspect had likely abused other women. As a result, officers identified potential new complainants. Indeed, the Toolkit refers to previous allegations by the complainant that may support the account,⁵⁰ but previous allegations by third parties may also be of importance.⁵¹ The suspect had previously been investigated following rape allegations made by another complainant. It was determined that the allegations did not meet the charging threshold.⁵² The suspect's work record was an important line of enquiry. Officers discovered that he had been the subject of employer disciplinary action for inappropriate behaviour towards female customers while using his mobile phone. This led officers to forensically examine his phone and personal computer and discovered a number of indecent images of children. The suspect was subsequently charged and convicted of multiple sexual offences, including several counts of rape.

Third party accounts were also relevant in another case involving multiple allegations of rape within a relationship. In case 4, the complainant came forward and made a rape allegation after she became concerned that the suspect was grooming her child. As part of the investigation, officers sought out women with whom the suspect had previously had a relationship. Two of the suspect's former partners confirmed that they had been sexually violated by the offender in ways similar to those described by the complainant. As a result of the evidence collected during the investigation, officers were able to identify the offender's *modus operandi*. This led to the suspect being charged and subsequently convicted of rape.

It is evident that quality victim care can combine with offender-centric policing, without which complainants may disengage from the investigative process.⁵³ In case 5, the complainant had learning disabilities and required an intermediary to help her participate in the police interview. She alleged that she had been raped by a friend. Officers were concerned about her welfare not least because family members were unsupportive. The complainant was unsure whether to proceed but did so after encouragement from a SAIT officer and support of an ISVA through to trial. Officers possessed intelligence that named the suspect as a domestic violence perpetrator, so they explored the suspect's history and specifically, his previous relationships with women.⁵⁴ The Toolkit encourages the use of third-party accounts 'supporting the allegation or negating the account of the suspect or defendant'.⁵⁵ This investigative approach yielded further evidence—several of the suspect's former partners reported instances of sexual violence. During his police interview, the suspect was unable to explain why he was being accused of rape by multiple women. He was subsequently charged and convicted of multiple counts of rape.

In case 6, a child was befriended by an adult male whom he met online. The suspect had previously been arrested following an earlier rape allegation. Officers traced the child's movements using CCTV

49. Rumney and others (n 7) 15–16.

50. Toolkit (n 15) 6.

51. See n 55, below, and accompanying text.

52. The research team did not have access to these earlier police case files or CPS case files, so it is not possible to analyse this no-charge decision.

53. See the sources in n 7, above.

54. This is to be distinguished from 'trawling', a practice heavily criticised by the courts. The updated guidance for prosecutors states: 'The term "trawling" is used in this context to describe the process whereby the police contact potential victims even though they have not been named in any of the statements given in the course of the investigation and there is little if any intelligence to suggest the individual might be a potential victim': CPS (n 5).

55. Toolkit (n 15), at 6.

and publicised his details locally. As a result, a member of the public identified him and the suspect, and the police used car registration details to identify the suspect. He was arrested and the complainant alleged that he had been raped by the suspect. The suspect denied rape and claimed he believed the complainant to be over the age of consent. Officers pursued a further line of enquiry that focused on the suspect's laptop computer. From the laptop, officers discovered indecent images of children and were able to identify a woman with whom the suspect was in contact. When interviewed she also made an allegation of rape against the suspect. At trial, he was acquitted of rape but was convicted of multiple child sexual offences.

Forensic Evidence Cases

Forensic evidence can be pivotal in linking a suspect to a complainant, and the reaction of a suspect to such evidence can be revelatory. In case 7, the suspect was accused by his ex-partner of rape. The complainant was reluctant to support the investigation. She spoke to a SAIT officer and ISVA and was persuaded to support the investigation. Forensic evidence confirmed sexual contact took place, despite the suspect's denials. During an interview with officers, he appeared to suggest that the police planted the evidence although he provided no explanation as to how this occurred. He was subsequently charged and convicted of rape. Research indicates that for 'stranger rapes the [National DNA Database] can be a very powerful tool to help identify the perpetrator'.⁵⁶ Indeed, the use of forensic evidence can also lead to an admission of guilt years after the offence has been committed. In case 8, a homeowner reported a burglary, and the police took a DNA sample to exclude him from their enquiries. As part of a subsequent cold case review, the homeowner's DNA from the burglary was matched to a stranger rape reported many years earlier. The suspect was arrested and charged. While being questioned the suspect claimed he did not recall committing the offence but subsequently pleaded guilty to rape. In terms of victim support, the case file indicated that an ISVA was active in providing advice and support to the complainant prior to the trial.

Predatory Behaviour

Case 9 involved a heavily intoxicated woman who was approached in the street by a male suspect who initially appeared to show concern for her condition. He then helped her to his car, and she subsequently alleged that he raped her in the vehicle. When officers reviewed CCTV footage of the area it was apparent that the suspect had tried to avoid cameras which suggested an effort to conceal his behaviour. This type of awareness of the physical environment is evidenced in studies examining the behaviour of violent offenders that is adaptive to time, space and geography.⁵⁷ His initial 'concern' can be argued to be a manipulative strategy to reduce the chances of the complainant refusing to speak to a stranger and his use of a vehicle was a means of committing his offence and leaving the location quickly. The Toolkit notes that 'An offender might think carefully about the location and timing of the offence in order to minimise the risk of detection and punishment'.⁵⁸ The police traced the suspect's car using CCTV and he was arrested. During questioning, he claimed that the complainant had consented to sex. The Toolkit also references the suspect's 'pattern of behaviour to support the allegation'.⁵⁹ In this regard, officers were particularly concerned when they discovered that the suspect had a history of similar behaviour. They used CCTV evidence to show that he would tour venues frequented by women who were intoxicated and then approach them. This strongly suggested that the suspect was not motivated by a spontaneous wish to assist the complainant but was part of deliberate targeting strategy. While the suspect was

56. Criminal Justice Joint Inspection, *Forging the Links: Rape Investigation and Prosecution* (2012) [3.24].

57. Beauregard and others (n 33) 1082.

58. Toolkit (n 15) 5.

59. Ibid 6.

charged with rape, for reasons not explained in the police case file, the prosecution was discontinued. The suspect in this case is similar to the ‘tracker’ sex offender typology, described by Beauregard and others, thus: “‘Tracker’ rapists carefully premeditate their crimes and search in specific places to look for victims, exhibiting a patterned target selection process”.⁶⁰ Trackers tend to search for victims on the street and use cars in order to do so.⁶¹ Here, the suspect used his car to allegedly commit his offence, but in other regards—his search for victims on the street, specifically looking for venues with vulnerable women while feigning concern for their welfare, tends to fit this typology.

A Pattern of Problematic Behaviour and an Unreliable Account

The Toolkit warns about misunderstandings concerning the credibility of vulnerable complainants,⁶² noting that ‘vulnerabilities might support rather than detract from an allegation’.⁶³ The Toolkit also notes that an undue focus on the complainant’s vulnerabilities may result in ‘Insufficient consideration of the circumstances of the offence including the credibility of the overall allegation and the offender’.⁶⁴ A complainant might be targeted precisely because of their vulnerability and so a focus on suspect behaviour, including predatory conduct may yield significant results. In case 10, a woman with complex vulnerabilities alleged that she had been raped by a suspect with an alleged history of targeting vulnerable women. She was supported by a SAIT officer and ISVA. In addition, an intermediary helped the complainant give an interview. Prior to the interview the intermediary also advised officers on the appropriate form of questions to be asked. These are the kind of ‘practicable steps’ the Toolkit recommends enabling a complainant to give an account of sexual victimisation.⁶⁵ Her account was contradictory and was in conflict with the evidence of other witnesses. While such issues cannot be discarded, the Toolkit notes that in cases involving vulnerable complainants, ‘A number of issues can impact on the precision or the detail of the account provided’.⁶⁶ In this case, the specific vulnerabilities of the complainant may have impacted the coherence of her statement, although this does not necessarily explain the conflicting witness evidence.

The Toolkit references such things as the impact of trauma, and the ‘side effects of medication, drugs or alcohol’ on the accuracy of complainant’s account.⁶⁷ Indeed, the research literature suggests that there are many reasons a complainant’s account might be incomplete or contain contradictory or inconsistent information, including: trauma, fear, embarrassment, poor interviewing skills and the fallibility of human memory.⁶⁸ The Toolkit also recognises what Saunders describes as ‘false accounts’, that is ‘the rape did not happen in the way the complainant said it did’.⁶⁹ It suggests that prosecutors should consider ‘Whether the victim is consciously providing an inconsistent account. This might be for a number of reasons including a fear of not being believed or criminalisation; to protect their sexuality or gender identity; intimidation including to their family; allegiance to the suspect/defendant’.⁷⁰ There was no

60. Beauregard and others (n 34), 137, 143.

61. Ibid 149.

62. See n 25, above, and accompanying text.

63. Toolkit (n 15) 1.

64. Ibid 2.

65. Ibid.

66. Ibid 7.

67. Ibid. On the issue of trauma, see also CPS ‘Psychological Evidence Toolkit—A guide for Crown Prosecutors’ (2019).

68. K Hohl and MA Conway, ‘Memory as Evidence: How Normal Features of Victim Memory Lead to the Attrition of Rape Complaints’ (2016) 17 *Criminol and Crim Justice* 248.

69. CL Saunders, ‘The Truth, the Half-Truth, and Nothing Like the Truth: Reconceptualizing False Allegations of Rape’ (2012) 52 *Brit J Criminol* 1152, 1168 (‘a false account of rape does not equate to establishing—or suspecting—that no rape, in fact, occurred. Rather, this is an allegation of rape containing statements of fact that are inaccurate and, consequently, not true’ (at 1160)).

70. Toolkit (n 15), 7.

evidence of these specific factors being present in case 10. All such factors should be considered by police and prosecutors, so too that an inconsistent account might be explained by the allegation being untrue. A failure to consider this latter possibility may lead to investigative failure.⁷¹ Such a determination, however, should only be made when all reasonable lines of enquiry have been pursued so the evidence against the suspect can be fully evaluated. This avoids the problem of officers focusing unduly on complainant credibility early in the investigative process without focusing on the history, behaviour and tactics of the suspect.⁷²

The suspect in case 10 denied any sexual contact had taken place with the complainant. The Toolkit poses questions pertaining to patterns of suspect behaviour, of which three apply in case 10. It asks: 'Is there relevant police intelligence about the suspect/defendant in their local area or elsewhere?'⁷³ The police possessed intelligence that the suspect and other males within his social circle associated with adult females, all of whom had complex vulnerabilities. Intelligence also suggested that they groomed these women for the purpose of sexual exploitation. The Toolkit asks, when referring to suspects: 'Do they associate with other people suspected of, or convicted for, committing similar offences?'⁷⁴ One of the suspect's associates had convictions for sexual offences. The Toolkit asks: 'Are they subject to other allegations or have they received other convictions?'⁷⁵ The suspect had previously been arrested on suspicion of assaulting a woman.

Here there are two narratives—an account of rape from a vulnerable woman that contained contradictions and conflicted with the evidence of other witnesses. The suspect's denial of any sexual contact can be seen in the context of his previous arrest for assault, and sources of intelligence suggesting he, along with his associates,⁷⁶ had a history of engaging in sexually exploitative behaviour. As such, the 'credibility of the overall allegation' against the suspect is not particularly compelling, but neither is the denial. One of the challenges for officers in this case was that a denial of sexual contact by the suspect did not give the same questioning opportunities found in other cases discussed in this article. Likewise, officers possessed relevant intelligence that suggested predatory behaviour by the suspect but despite the efforts of officers the investigation did not produce witnesses willing to corroborate the claims made in the intelligence. It is in investigations such as case 10 in which victim care and facilitation of communication plays an important role in giving the complainant a voice. This does not necessarily mean, however, that this case should have progressed to charge or trial. Despite this, victim support in its broadest sense is a critical means of maximising the chances of cases progressing through the criminal justice process.

A Missed Opportunity

In an analysis of police case files, the Angiolini review identified cases where there were missed opportunities to use the offender-centric approach.⁷⁷ Case 11 features an incorrectly cancelled case⁷⁸

71. For detailed discussion, see: Henriques (n 101), below.

72. A problem identified in the Angiolini report: See n 23, above, and accompanying text.

73. Toolkit (n 15) 6.

74. Ibid.

75. Toolkit (n 15) 6.

76. For discussion of peer support and sex offending, see for example: CA Franklin, LA Bouffard and TC Pratt, 'Sexual Assault on the College Campus: Fraternity Affiliation and Self Control' (2012) 39 *Crim Justice Behav.* 1457.

77. See n 83, below, and accompanying text.

78. Under the Home Office Counting Rules, recorded offences of rape can be removed from local crime records when transferred to another force area or cancelled for one of three grounds. The relevant ground being applied in error in case 11 is '[w]here following the report and recording of a crime additional verifiable information (AVI) is available that *determines* that no notifiable offence has occurred the crime may be removed' (emphasis in original): Home Office, *Counting Rules for Recorded Crime* (2020) section C. Without an investigation involving the pursuit of all reasonable lines of enquiry, it was inappropriate to classify the complainant's allegation in this case as meeting the AVI threshold.

in which there was an inadequate investigation and a clear missed opportunity to focus on the suspect, his actions and history. In this case, a woman with a mental age of a young child reported being raped by an acquaintance. The suspect had previously been arrested for the rape of another woman who had mental health issues, but was not questioned about this latest allegation. The case file references the quick cancellation of this initially recorded offence on the following basis: ‘if the victim did not tell him to “stop” how could he have known she was not consenting and therefore, it is our opinion that no offence of rape has been committed’. This reasoning ignores the fact that a rape victim does not have to communicate non-consent.⁷⁹ Further, there are questions over the complainant’s capacity to consent to sex and the suspect’s potential liability under s 30(3) Sexual Offences Act 2003.⁸⁰ Perhaps the most significant missed opportunity in this case was the failure to question the suspect. As a result, he could not be questioned about the allegation and specifically, on what grounds he believed it appropriate to have sexual intercourse with a woman who had a seriously impaired mental age,⁸¹ whether he believed she was consenting, the steps he took to ensure she was consenting to sex and the basis for any purported reasonable belief in consent.⁸² Further, officers did not take the opportunity to compare the *modus operandi* in this case with the previous rape allegation made against the suspect. If they were similar, this would suggest a pattern of behaviour involving the targeting of women with vulnerabilities.

Analysis

In most of the cases discussed in this article, suspect behaviour was an important part of the investigative focus. Of the 11 suspects, 9 were charged and 8 were convicted of rape or other sexual offences. Four suspects had previously been accused of rape. Offenders sometimes had a history of offending that had not been previously reported to the police. As a result, some of the investigations uncovered additional sexual offences, such as the possession of indecent images of children or a history of sexual violence within relationships. Two suspects (one of whom was convicted of rape and possession of indecent images of children) were the subject of employer disciplinary proceedings for inappropriate behaviour directed at female clients or customers. This suggests that behaviour that occurs in an employment context may involve criminality, but even if it does not it can yield useful evidence of a willingness to cross boundaries and disregard appropriate professional conduct.

In her review of agency responses to rape in London, Angiolini examined police case files and found: ‘Discussion about the potential for establishing evidence of longer term predatory patterns of behaviour by suspects was absent from the cases, despite a number of cases where vulnerable complainants with learning difficulties appeared to have been sought out by suspects . . .’.⁸³ The behavioural patterns found in the cases examined in this article not only featured complainants with learning disabilities but also suspects with a history of domestic violence. Research indicates that when rape within intimate relationships occurs it is likely to be repeated,⁸⁴ and as illustrated by cases 4 and 5, some offenders may sexually or physically abuse different partners over time.⁸⁵ Thus an offender-centric approach that involves enquiries into the private and professional life and history of the suspect may yield important evidence involving multiple victims and offences.

79. *Malone* [1998] 2 Cr App R 447.

80. Section 30 concerns sexual activity with a person with a mental disorder impeding choice.

81. He might, of course, claim ignorance of her mental age, but without being questioned it is not possible to know.

82. For discussion, see case 1.

83. Angiolini (n 4) [624].

84. K Painter, *Wife Rape, Marriage and the Law* (Manchester University Press, Manchester 1991) (noting that in a survey of 1007 women the “one-off” rape was unusual. Once a woman had been raped by her husband, the rapes continued to occur frequently’.).

85. AL Robinson, ‘Serial Domestic Abuse in Wales: An Exploratory Study into Its Definition, Prevalence, Correlates, and Management’ (2017) 12 *Vict Offender* 643, 645–46.

One of the issues raised by case 9 and the suspect's targeting of intoxicated women is the extent to which such behaviour can be prevented. Recent media coverage has focused on officers patrolling bars and nightclubs in response to a Prime Ministerial statement announcing pilot schemes to 'identify predatory and suspicious offenders'.⁸⁶ This follows a pilot initiative adopted by Thames Valley Police (TVP) in 2019. *Project Vigilant* aims to 'target predatory behaviour in order to prevent sexual offences taking place [by using] a combination of uniformed and undercover officers to carry out patrols to identify people who may be displaying signs of predatory behaviour such as sexual harassment, inappropriate touching and loitering'.⁸⁷ TVP state that this has led to a '50% reduction in rape and 30% reduction in sexual assaults in the night time economy in Oxford'.⁸⁸ The suspect in case 9 approached vulnerable women in the street before taking them to his vehicle. This type of highly visible behaviour may lead to intervention in an area using the *Project Vigilant* approach to prevent offending. As one TVP detective noted: 'We have found that utilising undercover officers and deploying them on the street has meant that we have been able to witness this behaviour first-hand and intervene more quickly'.⁸⁹

Further, a focus on the suspect can yield surprising results—suspects may make assertions that lead to a conviction. For example, in case 8, the suspect could have argued that he and his ex-partner had consensual sex. Instead, he insisted on claiming that the police had planted his DNA on items of clothing and without any credible basis for this claim, he was convicted. In the cases discussed in this article, there was no evidence of officers making unwarranted assumptions regarding complainant credibility due to vulnerability factors such as heavy intoxication—thus avoiding problems highlighted in the Toolkit and Angiolini report.⁹⁰ Finally, the data are a reminder that the legal definition of rape—specifically, the issue of reasonable belief in consent and steps taken by a suspect to ascertain consent, can be a helpful line of questioning as it was in case 1 to secure two critical admissions that subsequently led to a guilty plea.

Some Potential Problems and Limitations

One potential problem with the offender-centric model is that it could become a self-confirming investigative and prosecutorial approach. Behaviour that might be innocuous or suggestive of innocence might be recast in the minds of investigators and prosecutors as pointing to suspicion or guilt. Indeed, the Toolkit states: 'Offenders may take steps which, on the face of it might seem normal or reasonable, to distance themselves from an offence or to reframe the offence after committing a crime in order to undermine or pre-empt any allegation'.⁹¹ The recasting of 'normal or reasonable' behaviour as a sign of suspicion or guilt may be problematic where police officers and prosecutors fail to keep an open mind and come to conclusions tainted by cognitive bias. Dror and Fraser-Mackenzie describe the impact of such biases:

86. S Swinford and F Hamilton, 'Plain-Clothes Police Will Patrol Bars and Clubs to Protect Women' *The Times* (16 March 2021) 1.

87. Thames Valley Police, 'Force wide development of Project Vigilant—Thames Valley' 16 March 2021.

88. Ibid. While these figures are impressive *Project Vigilant* does not appear to have been subject to a detailed evaluation. It would be interesting to know for example, whether officers have been able to apprehend repeat offenders and what intelligence already existed pertaining to those arrested. If the crime reduction figures are a fall in recorded offences, then an evaluation would undoubtedly examine if other factors were influencing this decline, for example, seasonal variations in crime reporting or declining crime recording accuracy rates.

89. F Way, 'Thames Valley Police start Project Vigilant to Cut Down Sex Crime' *Oxford Mail* (20 November 2019).

90. For discussion, see nn 23, 24, above, and accompanying text.

91. In a list of examples of such behaviours, the Toolkit includes: 'Contacting the victim, perhaps being overfriendly or seeking reassurance'; 'Reinterpreting events leading up to the offence as spontaneous rather than planned'; Making a counter-allegation against the victim': See n 15, above, 5.

When cognitive biases exist, we interact differently and subjectively with the information . . . we are more likely to notice and focus on characteristics that validate and conform to extraneous information or context, a belief or a hope. Thus, the way we search and allocate attention to the data is selective and biased.⁹²

Experimental research involving prosecutors,⁹³ police officers⁹⁴ and digital evidence examiners⁹⁵ has produced varied results regarding the influence of cognitive biases on decision-making. Rossmo and Pollock analysed 50 criminal cases involving investigative failings, some of which led to wrongful convictions and others led to crimes that were unsolved.⁹⁶ They observed: ‘Flawed decision-making and poor thinking were behind most of the failed investigations we studied . . . Confirmation bias was the most frequent problem in wrongful convictions’.⁹⁷ They define confirmation bias as:

a type of selective thinking Once a hypothesis has been formed, our inclination is to confirm rather than refute . . . Confirmation bias can cause a detective, prosecutor, or forensic scientist to focus on evidence confirming the investigative theory, while ignoring or refusing to look for contradicting evidence.⁹⁸ (Internal citation omitted)

Thus, the dangers of cognitive bias are real, but there are ways of minimising the risk it poses in decision-making. For example, by adopting analytical techniques that consider alternative case hypotheses, the relative strength of supporting evidence and underlying assumptions.⁹⁹ It is not the case that ‘normal or reasonable’ behaviour¹⁰⁰ by suspects should be ignored when it may point to a manipulative or pre-planned strategy to reduce the likelihood of charge or conviction. Instead,

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92. IE Dror and PAF Fraser-Mackenzie, ‘Cognitive Biases in Human Perception, Judgment, and Decision Making: Bridging Theory and the Real World’, in K Rossmo (ed), *Criminal Investigative Failures* (Taylor & Francis, Milton Park 2008) 54.
93. M Lidén, M Grans and P Juslin, ‘From Devil’s Advocate to Crime Fighter: Confirmation Bias and Debiasing Techniques in Prosecutorial Decision-Making’ (2019) 25 *Psychology, Crime & Law* 494, 510. The researchers found that Swedish prosecutors were willing to play ‘devil’s advocate’ in early parts of the investigative process, but later in the process adopted ‘more guilt confirming mindsets’ (at 511). They found that confirmation bias impacted decision-making, thus: ‘the arrest and the prosecution lower the odds that additional investigation is deemed necessary and/or increase the level of guilt confirmation in the suggested additional investigation’ (at 519). The researchers conclude, that: ‘In real life criminal cases, a skeptical mindset in relation to the evidence before a prosecution is clearly of limited value if there is still bias in the subsequent more influential decisions about whether to press charges . . .’ (at 520).
94. See for example, K Ask and PA Granhag, ‘Motivational Sources of Confirmation Bias in Criminal Investigations: The Need for Cognitive Closure’ (2005) 2 *Journal of Investigative Psychology and Offender Profiling* 43, 58 (discussing experimental findings that found evidence of a ‘guilt bias’ among police officers that may be ‘a potential danger in real-life investigations. Specifically, entering an investigation with a presumption of guilt may make investigators insensitive to potentially exonerating information’). M Lidén, M Grans and P Juslin, ‘The Presumption of Guilt in Suspect Interrogations: Apprehension as a Trigger of Confirmation Bias and Debiasing Techniques’ (2018) 42 *Law Hum Behav* 336 (noting that ‘apprehended suspects were interrogated in a more guilt presumptive way and rated as less trustworthy than non-apprehended suspects’).
95. N Sunde and IE Dror, ‘A Hierarchy of Expert Performance (HEP) Applied to Digital Forensics: Reliability and Biasability in Digital Forensics Decision Making’ (2021) 37 *Forensic Science International: Digital Investigation* 1, 6–8 (‘findings regarding biasability and reliability suggest that human factors have a significant impact on the outcome of a [digital forensic] examination and that the results of [such] examinations should not be presumed to be objective and credible’).
96. K Rossmo and J Pollock, *Case Deconstruction of Criminal Investigative Failures* Final Summary Overview National Institute of Justice 2014-IJ-CX-0037 (2018) 1. <<https://www.ncjrs.gov/pdffiles1/nij/grants/254340.pdf>> (accessed 24 March 2021).
97. Ibid 21.
98. Ibid 18. (Internal citations omitted).
99. MR Kebbell, D Muller and K Martin, ‘Understanding and Managing Bias’, in G Bammer (ed), *Dealing with Uncertainties in Policing Serious Crime* (Griffin Press, Netley 2010) 92–3. A number of strategies have been suggested, including identifying the risk of failure in individual cases, establishing procedures for the collection and evaluation of evidence, the use of training to reduce the impact of cognitive bias and improved supervision of investigations: DK Rossmo and JM Pollock ‘Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective’ (2019) 11 *Northeastern University Law Review* 790, 831–34.
100. See n 91, above, and accompanying text.

biases of whatever type—including the potential impact of rape myths and stereotypes, or an unwarranted belief in the veracity of an allegation¹⁰¹ should be addressed to avoid flawed decision-making.

Another potential issue is the police's 'instinctive starting point is a presumption of guilt—to see the alleged victim as a victim and the alleged offender as an offender'.¹⁰² This problem arises in cases of miscarriages of justice involving false allegations, but also 'routine police investigations that do not breach due process can also lead to wrongful convictions'.¹⁰³ By keeping an open mind, pursuing reasonable lines of enquiry, retaining awareness of the dangers posed by unwarranted assumptions and biases on evidential analysis, officers will reduce the risk of offender-centric approaches turning into a one-directional means of justifying the targeting of a suspect, who is in fact, factually innocent.¹⁰⁴ Evidence suggests that criminal investigation can have serious personal, professional and financial consequences for those accused of wrongdoing.¹⁰⁵ Thus, the cost of focused investigations, that have in fact, targeted the wrong suspect or where no offence has in fact occurred, may be significant. Recent evidence suggests that false allegations of sexual assault against the factually innocent result in few wrongful convictions, but a higher number of charged cases which are later dismissed.¹⁰⁶ Case law reveals that some false claims that should have been identified during the investigatory process are not uncovered until after a suspect is convicted.¹⁰⁷ Such problems do not mean that the offender-centric policing model is unduly compromised. Rather, efforts should be made to ensure that the impact of bias and unwarranted assumptions that impact on police investigations are minimised.

Conclusion

It is hoped that this article will lead to a more open discussion of the nature, potential benefits and limitations of the offender-centric approach to rape case investigation. This is an area of policing

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101. Sir Richard Henriques, *The Independent Review of the Metropolitan Police Service's Handling of Non-recent Sexual Offence Investigations Alleged Against Persons of Public Prominence* (2016) [2.3.8.58] ('The principal cause of the many failures in this investigation was poor judgement and a failure to accurately evaluate known facts and to react to them. A major contributing factor was the culture that "victims" must be believed. Whilst the responsible Officers assert that they kept an open mind, several failures can only be explained by an unwarranted and disproportionate belief in [Carl Beech's] credibility').
 102. M Naughton, *The Innocent and the Criminal Justice System: A Sociological Analysis of Miscarriages of Justice* (2013) 233.
 103. Ibid.
 104. See also n 99, above, and accompanying text for various means of reducing the impact of cognitive bias in police decision-making.
 105. C. Hoyle, N-E Speechley and R Burnett, *The Impact of Being Wrongly Accused of Abuse in Occupations of Trust: Victims' Voices* (2016). *R v Duggan* [2013] EWCA Crim 1202 (sentencing of defendants for offences related to the killing of a male who was the subject of a retracted allegation of rape two years' earlier). In July 2013, Bijan Ebrahimi was falsely accused of being a paedophile by a neighbour and a short time later, he was beaten to death by the same neighbour. For discussion of the events surrounding the murder, see: *R v James and Norley* 28 November 2013 (Sentencing remarks of Mr Justice Simon). See also: Wells, "'Guilty Until Proven Innocent": Life After a False Rape Accusation', *The Telegraph* (28 October 2015) <<http://www.telegraph.co.uk/men/thinking-man/11912748/Guilty-until-proven-innocent-life-after-a-false-rape-accusation.html>> accessed 24 March 2021.
 106. K Hail-Jares, B Lowrey-Kinberg and K Dunn, 'False Rape Allegations: Do they Lead to a Wrongful Conviction Following the Indictment of an Innocent Defendant?' (2020) 37 JQ 281 ('False rape allegations accounted for 4% of wrongful convictions in the sample and 45.6% of near misses').
 107. See for example, *R v Harris* [2017] EWCA Crim 1849, para 47 (noting that a prosecution witness who claimed to have seen the appellant indecently assault a child contained the 'oddity that nobody at trial picked up on the reference made by [the witness] to being on leave from a tour of duty in Korea notwithstanding the ending of the war there about a decade and a half prior to [the alleged indecent assault]'... 'The information now available about [the witnesses's] military service and employment history tends to suggest that his account of recent service in Korea was a fantasy'. Given the nature of this false evidence it is self-evident that investigators, prosecutors or the defence should have identified it at some point prior to conviction). See also: MB Johnson, *Wrongful Conviction in Sexual Assault: Stranger Rape, Acquaintance Rape, and Intra-familial Child Sexual Assaults* (OUP, Oxford 2020).

practice and theory that has been neglected by academics and rarely subject to evaluation in the context of actual rape investigations and prosecutions. Nine of the cases featured in this paper indicate that a focus on the suspect and his history, words and behaviour can make a significant contribution to investigative outcomes.¹⁰⁸ These cases point to the value of offender-centric tactics in investigations featuring suspects with a history of criminal and problematic non-criminal behaviour, domestic and sexual violence. Some of these cases also illustrate the importance of victim care. This was an important means by which complainants were encouraged to make difficult disclosures and support the investigative process. A focus on the suspect must not preclude supporting complainants, including those with complex needs to assist them in dealing with the impact of victimisation and vulnerabilities that may have led to them being targeted by offenders in the first place. In the absence of such support complainants may disengage from the investigative process or withdraw their allegations.¹⁰⁹ Finally, two of the cases discussed in the paper are an important reminder that opportunities to focus on a suspect and his behaviour can be missed, and case complexity can limit the application of this policing model even when the suspect has a troubling history and associations. The offender-centric investigative model by its nature has suspects as its initial focus. However, complainant credibility issues and evidence that contradicts the complainant's account may also emerge and should be considered in light of the CPS Toolkit. While the offender-centric approach cannot address all investigative challenges in rape cases, it is undoubtedly a useful addition to existing strategies.

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108. While the authors had access to the police case files and the comments of prosecutors (where they were recorded), we did not have access to CPS files nor court transcripts. Thus, some caution is required in attributing case outcomes to offender-centric investigative tactics. However, given the combination of the weight and nature of evidence, suspect admissions and guilty pleas, it is possible to conclude these tactics played a role, in some instances, a pivotal role, in cases discussed in this article.

109. For discussion, see: C Waxman, *The London Rape Review: Reflections and Recommendations* (2019).